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OFFICE OF PETITIONS

In re Application of :
Steele, et al. : LETTER REGARDING PTA
Application No. 10/028,375 :
Filed: December 28, 2001 :
Atty. Dkt. No.: 06502.0374-00 :

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed June 28, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

Applicants indicate that the PTA of 747 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b), mailed April 27, 2006 may be in error and request a re-determination.

The correct patent term adjustment (PTA) at the time of the allowance is 568 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the Notice of Allowance reflects an adjustment of 568 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A careful review of the application history reveals that the Office failed to assess a reduction of 30 days in connection with the Notice of Appeal filed September 30, 2005 under 37 CFR 1.704(b).

Moreover, the Office errantly calculated an adjustment of 149 days under 37 CFR 1.702(a)(2). The application is not entitled to an adjustment under 37 CFR 1.702(a)(2) because the Notice of Allowance was mailed within four months of the reply (amendment placing application in condition for allowance) was filed on March 21, 2006. See, endnote for calculation of adjustmentsⁱ.

Accordingly, at the time of allowance, the application was entitled to an adjustment of 606 days. The adjustment is properly reduced eight days, as uncontested by applicants. See, endnote for calculation of reductionsⁱⁱ.

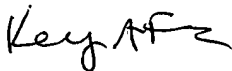
In view thereof, at the time of allowance, the application is entitled to an adjustment of 568 days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

ⁱ An adjustment of 565 days was accorded under 37 CFR 1.702(a)(1) and 1.702(a)(1) for failure to mail at least one notification or Notice of Allowance within 14 months of the date the application was filed. An adjustment of 41 days was accorded under 37 CFR 1.702(a)(2) and 1.703(a)(2) for failure to respond to the amendment filed December 20, 2004 within four months from the date the amendment was filed.

ⁱⁱ A reduction of three days in accordance with 37 CFR 1.704(c)(8) was assessed in connection with the supplemental reply (IDS) submitted December 23, 2004; a reduction of five days in accordance with 37 CFR 1.704(b) was assessed in connection with the amendment after non-final Office action submitted December 20, 2004; and a reduction of 30 days is properly assessed in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal submitted September 30, 2005.

Day : Monday
Date: 10/2/2006

Time: 07:40:21

PALM INTRANET

PTA Calculations for Application: 10/028375					
Application Filing Date:		12/28/2001	PTO Delay (PTO):		755
Issue Date of Patent:			Three Years:		0
Pre-Issue Petitions:		0	Applicant Delay (APPL):		8
Post-Issue Petitions:		0	Total PTA (days):		568
PTO Delay Adjustment:		-179			

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
59	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
58	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		149	
50	04/27/2006	MAIL NOTICE OF ALLOWANCE	149		27
49	04/27/2006	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
48	04/25/2006	ISSUE REVISION COMPLETED			
47	04/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	04/20/2006	NOTICE OF ALLOWABILITY			
45	01/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	04/12/2006	PARALEGAL TD ACCEPTED			
43	04/12/2006	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
42	03/21/2006	TERMINAL DISCLAIMER FILED			
41	04/11/2006	DATE FORWARDED TO EXAMINER			
40	03/21/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
39	03/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	11/08/2005	MAIL APPEALS CONF. PROCEED TO BPAI			
36	11/04/2005	APPEALS CONF. PROCEED TO BPAI,			
35	09/30/2005	REQUEST FOR APPEAL CONFERENCE FILED			
34	09/30/2005	NOTICE OF APPEAL FILED			
33	09/30/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			

32	08/30/2005	MAIL ADVISORY ACTION (PTOL - 303)			
31	08/17/2005	ADVISORY ACTION (PTOL-303)			
30	07/29/2005	REFERENCE CAPTURE ON IDS			
29	07/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	27
28	08/09/2005	DATE FORWARDED TO EXAMINER			
27	07/29/2005	AMENDMENT AFTER FINAL REJECTION			
26	05/31/2005	MAIL FINAL REJECTION (PTOL - 326)	41		21
25	05/26/2005	FINAL REJECTION			
24	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
23	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	03/16/2005	DATE FORWARDED TO EXAMINER			
21	12/20/2004	RESPONSE AFTER NON-FINAL ACTION		5	15
20	11/23/2004	REFERENCE CAPTURE ON IDS			
19	11/04/2004	REFERENCE CAPTURE ON IDS			
18	12/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		3	21
17	11/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	12/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	09/15/2004	MAIL NON-FINAL REJECTION	565		-1
14	09/15/2004	NON-FINAL REJECTION			
13	08/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	08/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	06/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	06/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	01/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/19/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/10/2002	PRELIMINARY AMENDMENT			
6	03/27/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	02/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	01/29/2002	APPLICATION DISPATCHED FROM OIPE			
3	01/28/2002	APPLICATION IS NOW COMPLETE			
2	01/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/28/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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